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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 003081

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TAGS: [PHUM](#) [PGOV](#) [PREL](#) [KIRF](#) [CASC](#) [CH](#)  
SUBJECT: PRC: HUMAN RIGHTS CONCERNS RAISED WITH MFA IO DDG  
SHEN

REF: 11/6/09 MOELING-KRITENBRINK EMAIL

Classified By: Political Section Chief Aubrey Carlson. Reasons 1.4 (b) and (d).

11. (C) Summary: In a November 10 meeting with MFA human rights official Shen Yongxiang, PolMinCouns raised U.S. concerns regarding the two-year, pre-trial detention of American citizen Dr. Feng Xue on state secrets charges, PRC policies in Tibet and Xinjiang including recent executions there, the October detention of Uighur journalist Heyrat Niyaz, and reports of harassment by Beijing authorities of house churches. Shen claimed that the Chinese judiciary had acted in accordance with criminal statutes in the cases of executions in Tibet and Xinjiang. Claiming there were "no house churches in China," Shen said that Protestant "family gatherings" are allowed under Chinese law, but China could not extend official recognition to all informal Protestant groups. End Summary.

Human Rights Concerns Raised with DDG Shen  
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12. (C) In a November 10 meeting with MFA International Organizations and Conferences Department Deputy Director General and Special Representative for Human Rights Dr. Shen Yongxiang, PolMinCouns raised USG concerns regarding the lack of transparency surrounding the recent trials and executions of Tibetans and Uighurs in Tibet and Xinjiang. PolMinCouns also raised the detention of Uighur journalist Heyrat Niyaz, the case of detained American citizen Dr. Feng Xue and the situation facing the Shouwang house church in Beijing.

Trials and Executions in Tibet and Xinjiang  
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13. (C) While the United States did not condone the violence that occurred in Urumqi (July 2009) and Lhasa (March 2008), PolMinCouns noted, the recent executions of Tibetans and Uighurs raised concerns about due process and transparency as well as longstanding concerns about PRC policies in Tibet and Xinjiang. He urged China to address the underlying causes of ethnic tensions in these areas. PolMinCouns reminded Shen that the U.S. and other Western embassies in Beijing had formally requested, but were denied, permission to observe the trials of those charged with crimes connected to the July 5 and March 2008 riots. Having observers at these trials would allow for better understanding of PRC due process procedures.

14. (C) DDG Shen responded that in China the death penalty was applied equally to citizens of all ethnic backgrounds. Contradicting himself, Shen said that in fact the court had been lenient in many of the cases related to Tibet and Xinjiang violence because the perpetrators were members of ethnic minorities. Had they been ethnic Han convicted of such violent crimes, Shen suggested, a higher percentage

would have received the death penalty. Those who had been charged, sentenced and executed had committed serious crimes, and the application of the death penalty in these cases was consistent with Chinese law. Shen claimed that China's judiciary had followed criminal statutes in the disposition of the cases, and that all trials had been open to the public, and lawyers and interpreters had been available to the defendants. Shen pointed out that the death sentences had been upheld on appeal at the Higher People's Court of the Tibetan Autonomous Region (in the case of the Tibetans) and reviewed and approved by the Supreme People's Court. Shen urged the United States to respect the verdicts.

15. (C) Shen stated that China was under no obligation to allow foreigners to attend trials of Chinese citizens and that it was China's principled stance "never to accept foreign observers" at trials of Chinese citizens. Foreigners could attend trials as members of the public, Shen said, but it was the discretion of individual courts to decide whether to admit members of the public. Shen said he saw no need for the United States to observe Chinese trials and stressed the independence of China's judiciary. Shen suggested a discussion of China's judicial independence as a possible topic for further discussion in the next round of the Human Rights Dialogue and the Legal Experts Group.

#### Case of Detained Uighur Journalist

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16. (C) PolMinCouns expressed U.S. concern over the detention of Uighur journalist Heyrat Niyaz. According to media reports, Niyaz was detained October 1 in Urumqi after giving

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an interview about the July 5 riots to a Hong Kong magazine. PolMinCouns urged the Chinese government to release Niyaz noting that his detention, as reported, was inconsistent with freedom of the press and freedom of expression. (Note: On October 30, the DCM sent a letter to the Xinjiang Uighur Autonomous Region Foreign Affairs Office urging the release of Niyaz, and the Embassy raised his case with MFA at the working level on November 2.) Shen replied that he was not familiar with Niyaz's case but would look into it.

#### Humanitarian Case of AMCIT Dr. Feng Xue

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17. (C) PolMinCouns raised the case of American citizen Dr. Feng Xue, who has been in pre-trial detention for two years and is in failing physical and mental health. PolMinCouns noted that the Ambassador had raised Dr. Xue's case in a meeting with Vice Foreign Minister He Yafei November 6 (ref email). The United States urged China to release Dr. Xue immediately. Shen claimed that the Chinese government "shouldn't put any pressure on the judicial system," but that it was appropriate for the Embassy to have consular access to Dr. Xue since he was an American citizen. (Note: The Embassy has had regular monthly consular access to Dr. Xue during his two-year detention.)

#### "There Are No House Churches in China"

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18. (C) PolMinCouns asked that China seek ways to allow house churches, as legitimate groups of religious believers, to operate legally. PolMinCouns noted that the well-known Shouwang house church had recently experienced harassment by local authorities including pressure on its landlord resulting in the loss of its lease and the temporary detention of its head pastor. This treatment by the part of the Beijing municipal government constituted harassment.

19. (C) Shen asserted that "there was no such thing as house churches" in China. Shen claimed that some Protestants organized "family gatherings," which were consistent with Chinese law. However, such gatherings should be limited to

family and friends and were restricted to the home. Worshippers should also refrain from making too much noise or disturbing the normal life of their neighbors, Shen said. Shen claimed to be unaware of the Shouwang church but promised to pass on any information to the appropriate offices.

¶10. (C) Shen insisted that registered religious groups were required to have a fixed place to organize their religious activity. It would be difficult for the State Administration of Religious Affairs to officially recognize Protestant "family gatherings," Shen continued, as China needed to treat all religions equally. If informal Protestant groups were extended official recognition, then other religious groups would have to be afforded similar treatment. This would "cause a lot of problems," Shen concluded.

Human Rights Dialogue, Case List  
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¶11. (C) At the conclusion of the meeting, both sides confirmed that they looked forward to the next round of the U.S.-PRC bilateral Human Rights Dialogue and the Legal Experts Group and agreed to seek to set a date soon. PolMinCouns provided Shen a copy of the list of human rights and humanitarian concern cases that the Ambassador handed to VFM He Yafei November 6 (ref email).  
HUNTSMAN